IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2761 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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HEMANT S JAISWAL

Versus

PADRA NAGAR PALIKA

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Appearance:

1. Special Civil Application No. 2761 of 1991

MR HD VASAVADA for Petitioner No. 1

MS SEJAL SUTARIA for MR VH DESAI for Respondent No.1

MR KT DAVE, AGP for Respondent No.4

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CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 01/10/2002

ORAL JUDGEMENT

#. By filing this petition under Article 226 of the

Constitution, the petitioner has prayed to issue a writ of Mandamus or any other appropriate writ, order or direction, to quash and set aside the order dismissing the petitioner from service as published in Gujarati weekly "Dhabkar" dated March 25, 1999. The petitioner has also prayed to direct the State Government and its authorities to take appropriate action against the respondents No.1 and 2 for having acted in contravention of provisions of law while terminating the services of the petitioner. Further, it is prayed that the respondents should be restrained from filling up the post of Principal in the respondent No.2 - school pursuant to the advertisement dated September 15, 1990, issued in Gujarati daily "Gujarat Samachar".

#. The petitioner was appointed as Assistant Teacher in the respondent No.2 - school which is run by Padra Municipality, Padra, District: Vadodara. He was later on found to be ineligible for appointment as an Assistant Teacher in the higher secondary school. His services were therefore terminated by an order dated March 5, 1990. The said order was challenged by the petitioner before the Gujarat Higher Secondary Schools Services Tribunal by filing Application No.78 of 1990. The said application was allowed by the Tribunal vide judgment dated January 8, 1991, and the orer terminating the services of the petitioner was set aside. However, liberty was reserved to the respondent No.2 - school to hold fresh inquiry against the petitioner. Accordingly, an inquiry was held and after holding departmental inquiry, the petitioner was dismissed from service on July 13, 1992. The petitioner has filed the present petition on the basis of news which appeared in Gujarati weekly "Dhabkar" dated March 25, 1991, mentioning that a Resolution was passed by the Padra Nagarpalika dismissing the petitioner from service. However, the subsequent order dated July 13, 1992, dismissing the petitioner from service is not under challenge by the petitioner in the present petition. In view of the subsequent order dated July 13, 1992, dismissing the petitioner from service, I am of the opinion that the petition has become infructuous and deserves to be disposed of accordingly.

#. Accordingly, the petition is dismissed. It is clarified that it would be open to the petitioner to challenge the order dated July 13, 1992, terminating his services, before the competent Tribunal in accordance with law. As and when said order is challenged before the Tribunal, the challenge shall be considered by the Tribunal in accordance with law. The request which may be made on behalf of the petitioner to expedite the

hearing of application that may be submitted by the petitioner shall be considered by the Tribunal on merits. Subject to these observations, Rule is discharged with no order as to costs. The petition stands disposed of as having become infructuous.

(J.M.Panchal, J.)

(sunil)